

Chapter PW-PA 20

PUBLIC ASSISTANCE

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PW-PA 20.03 Need determination. (1) **PURPOSE.** This rule is adopted to effectuate on a state-wide basis, the determination of need for public assistance of applicants for and recipients of aid to dependent children, in order to insure in so far as possible equitable treatment of persons in need throughout the state.

(2) **DETERMINATION OF ELIGIBILITY AND AMOUNT OF PAYMENT.** Eligibility for aid and the amount to be paid as aid to dependent children, shall be determined by the county agency in accordance with standards prescribed by the department of health and social services. The department shall define need standards within the statutory requirements which shall include published instructions to the county operating agencies regarding the items of need to be included and how the cost of these items is to be determined, the method of considering resources, and generally principles of budgeting to be applied to the individual circumstances. In effect, the department shall define need within the statutory provisions as set forth in s. 49.19 (5), Stats.

History: 1-2-66; am. Register, February, 1975, No. 230, eff. 3-1-75.

PW-PA 20.04 Eligibility verification. (1) As a condition of eligibility, each applicant for or recipient of aid will be required:

(a) To furnish to the state or local agency a social security account number, hereinafter referred to as the SSN, or

(b) To apply for such number through procedures adopted by the state or local agency with the social security administration and provide the number upon receipt.

(2) If the applicant or recipient has complied with the requirements of subsection (1) (b) the state or local agency shall not deny, delay, or discontinue assistance pending the issuance or certification of such numbers.

(3) "Applicant" and "recipient" include the caretaker relative, the children, and any other individual whose needs are considered in determining the amount of assistance.

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(4) The state or local agency shall notify the applicant or recipient that the furnishing of the SSN is a condition of eligibility for assistance required by the Social Security Act and that the SSN will be utilized in the administration of the AFDC program.

(5) The above conditions are required by federal regulation 45 CFR 232.10 effective July 1, 1975.

(6) Effective date. January 1, 1977.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77.

PW-PA 20.05 Responsibility of relative to support. When a relative enumerated in s. 52.01, Stats., is not assisting an applicant for aid to dependent children, and refuses to assist and when there is reasonable doubt as to liability or ability of such relative to assist, no application for aid to dependent children under s. 49.19, Stats., shall be denied by the county agency until such agency shall have secured an order from a court of competent jurisdiction under s. 52.01, Stats.; provided also that is deemed to be the responsibility of the county agency in such case to petition under s. 52.01, Stats.

History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67; am. Register February, 1975, No. 230, eff. 3-1-75.

PW-PA 20.06 Relatives eligible for aid to dependent children. Section 49.19 (1) (a), Stats., and Title IV, section 406 (a), Federal Social Security Act are construed to permit payments of public assistance grants in behalf of dependent children who are living with a person included in one of the following groups:

(1) Any blood relative, including first cousins, nephews, or nieces and those of half-blood.

Note: Relationships to persons of preceding generations as denoted by prefixes of grand, great, or great-great are within this definition.

(2) Stepfather, stepmother, stepbrother, and stepsister.

(3) Persons who legally adopt a child or his parent as well as the natural and other legally adopted children of such persons.

Note: Other relatives of persons who adopt children are relatives of such adopted children within this definition.

(4) Spouses of any persons named in the above groups.

Note: Such relatives may be considered within the scope of this provision though the marriage is terminated by death or divorce.

History: 1-2-56; am. Register, February, 1975, No. 230, eff. 3-1-75.

PW-PA 20.07 Incapacitation for gainful work; dependent children. (1) PURPOSE. This rule is adopted to promote the rehabilitation of dependent persons in keeping with the legislative intent expressed in s. 49.02 (6), Stats., to determine the eligibility of applicants for aid to dependent children as required under ss. 49.19 (1), (2), (3) and (4), Stats., to determine the amount of aid needed (including necessary medical aid for the incapacitated parent) as directed under ss. 49.19 (5) and 49.46, Stats., and further to carry out the department's responsibilities as expressly stated or implied under ss. 46.206 and 49.50 (2) and (6), Stats.

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(2) **DETERMINATION OF ELIGIBILITY.** The decision as to eligibility because of the incapacitation of a parent shall be made by the county agency. Such decision shall be based upon a physician's opinion as to whether or not there is physical or mental disability and a consideration of relevant social and employability factors.

(3) **EXAMINATION AND REPORT.** With respect to any application for aid to dependent children in which incapacitation of a parent is claimed as the basis for eligibility, such parent shall be examined by a licensed physician and he shall report his findings in writing on a form prescribed by the department for this purpose. For purposes of reimbursement under s. 49.52, Stats., fees paid physicians for examinations made under this rule may be reported as expenditures incurred in administration. A physician's report shall be obtained and the decision of the county administrator recorded on the prescribed form before aid may be granted. A completed copy of the report shall be sent to the department for all examinations made. Reexamination for purposes of determining continuing eligibility shall be made as often as indicated by the physician's report or by observation of the person's physical condition, but at least once in any 12-month period.

(4) **EXCEPTIONS.** (a) A medical examination is not required if the incapacitated parent has been found eligible for aid to the blind or for aid to totally and permanently disabled persons.

(b) A medical reexamination for purposes of determining continuing eligibility may not be required in the discretion of the county agency if the examining physician indicates in his report that the disability is permanent and that the incapacitated parent will never be employable.

(c) If the incapacitated parent is receiving care at a mental, tuberculosis, or veteran's hospital, a reexamination is not required during the time he is receiving such care.

History: 1-2-66; am. Register, April, 1967, No. 136, eff. 5-1-67.

PW-PA 20.08 Divestment. (1) **PURPOSE.** This rule is adopted for administration of s. 49.19 (2) (p), Stats., regarding eligibility for aid to families with dependent children when divestment of property has occurred within 2 years prior to the date of application.

(2) **TO WHOM THE RULE APPLIES.** Any person who is an applicant after the effective date of this rule for aid to families with dependent children and all persons for whom that person has legal responsibility and for whom aid is being sought.

(3) **DEFINITION.** Divestment means the conveyance, transfer or disposition of any property without receiving adequate and full consideration in money or money's worth.

(a) "Conveyance, transfer or disposition" is the act of changing legal title or other right of ownership to another person or persons.

(b) "Property" is anything to which a person has legal title or other right of ownership be it exempt or nonexempt real or personal property.

(c) "Adequate and full consideration" is a minimum of 90% of the available market value minus the costs of transaction on the open market.

(d) "Money or money's worth," henceforth called "value received," is the dollar value which can be attached to that which is received in return for the property and may be in any one or more of the following forms:

1. Cash.
2. Other assets such as accounts receivable, promisory notes (both of which must be valid and collectible to be of value), stocks, bonds, land contract and life estate which are evaluated over an extended time period.
3. Other goods, i.e., other property real or personal.
4. Discharge of a debt.
5. Prepayment of bonafide and irrevocable contract such as mortgage, shelter lease, loan, taxes.
6. Services which shall be assigned a valuation equal to the cost of purchase on the open market. Only those services shall be considered for which there exists a written agreement executed prior to the provision of the services, whether provided by a member of the immediate family, other relative or nonrelative.

(4) **CRITERIA.** (a) Divestment by any person within 2 years prior to the date of making application for aid shall, unless shown to the contrary, be presumed to have been made in contemplation of receiving aid and shall create ineligibility for such aid until the value of the divested amount is expended by or on behalf of the person's maintenance need and medical care. Person in this context means the one who divested plus all other persons for whom that person has legal responsibility and for whom aid is being sought.

(b) Eligibility for aid prohibitions related to divestment are applicable to applicants only.

(c) Divestment shall only be considered when the net value of all of the properties disposed of exceeds \$500.

(d) When property is owned jointly, the expected share of the value received shall be the same as the share of ownership. All owners shall be assumed to share equally in the absence of evidence to the contrary.

(e) Divestment does not occur in cases of division of property as part of a divorce or separation action, loss of property due to foreclosure, defunct sales contracts, or repossession of property due to failure to meet payments.

(5) **DETERMINING DIVESTMENT.** (a) Determine the net value of all properties the person has conveyed, transferred or disposed of.

1. Net value is the market value minus the costs of transaction on the open market.

2. Net value is determined as of the date of the transaction.

(b) If the net value is \$500 or less divestment shall not be considered.

(c) If the net value exceeds \$500, determine the total "value received" in return for all the properties.

(d) If the "value received" is equal to or greater than "adequate and full consideration" there is no divestment.

(e) If the "value received" is less than "adequate and full consideration" the difference is the "divested amount" and shall be considered an asset.

(f) If the "divested amount" plus the person's other assets is \$1500 or less, the divestment shall not be considered a bar to eligibility.

(g) If the "divested amount" plus the person's other assets is greater than \$1500, the excess over \$1500 is the "amount of the divestment to be satisfied."

(6) **EXPUNGING DIVESTMENT.** The "amount of the divestment to be satisfied shall be "expended" for maintenance needs and medical care, or two years shall have elapsed since the act of divestment, whichever occurs first, to expunge the divestment as related to eligibility for aid.

(7) **DETERMINING "EXPENDED."** (a) "Expended" amounts shall be calculated monthly.

(b) The monthly calculation shall be the AFDC standard according to the appropriate family size plus actual medical care expenses for that month.

History: Cr. Register, June, 1980, No. 294, eff. 7-1-80.

PW-PA 20.11 Payment of aids. All payments to recipients of aid to families with dependent children (including payments on behalf of children in foster homes or a child-caring institution pursuant to s. 49.19(10), Stats.), shall be made under the following provisions:

(1) **CASH.** Payment shall be made by county check payable to the beneficiary or to a person judicially appointed as the legal representative of such beneficiary by the courts under ch. 319, Stats., or a protective payee and shall not be subject to discount but redeemable in cash in the amount of its full face value upon demand, provided that nothing in this rule shall be deemed to supersede any provision of section PW-PA 20.06 governing relatives' eligibility for aid to families with dependent children.

(2) **RESTRICTION ON USE OF ASSISTANCE NOT PERMITTED.** Payment must consist of an unconditional transfer and delivery of said check to the recipient for expenditures by him in his discretion and shall not be made in lieu of wages or with respect to work done.

(3) **DATE.** Payment of assistance shall be made in the month for which the grant of aid is designated, either in the full amount of the monthly allowance or in 2 or more installments. When a single payment is made for the full amount of the monthly allowance, it shall be made not later than the fifth day of the month. When the monthly allowance is made in installments, each installment shall be for equal periods based on a 30-day month. Payment of the first installment shall be made no later than the fifth day of the month and each subsequent installment no later than the fifth day of each installment period. Payment of an initial allowance may be made subsequent to the fifth day of the month and shall be made within the month. Additional payments made to meet increased budgetary needs may be made subsequent to the fifth day of the month and payments correcting any prior underpayment may be made

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any time prior to the end of the twelfth month following the month in which such underpayment occurred.

(3m) **EXCEPTION.** Payment on behalf of a child in a foster home or child-caring institution pursuant to s. 49.19 (10), Stats., shall be made in arrears and not later than the tenth day of the month following the month for which the payment is made.

(4) **COVERAGE.** Initial payment may include the needs to the first of the month in which aid is applied for and eligibility is shown to have existed as of the first of such month; provided, however, that this provision shall not preclude continuing payments when an eligible recipient moves from one county to another nor adjustments when grants of aid are reinstated after suspension, nor adjustments upon order of the state department of health and social services, division of family services, made in accordance with s. 49.50 (8), Stats., nor in any case or similar cases in which a court decision changes the regulation upon which the case was denied, discontinued or the budget of the recipient was improperly computed, resulting in an improper reduction in the amount of aid.

(5) **ENDORSEMENT.** Pursuant to federal regulation, checks must be endorsed by the payee with his signature; provided that persons unable to write shall endorse their assistance checks either by mark or by finger print in the presence of 2 witnesses who shall append their signatures and addresses.

History: 1-2-56; am. (1), Register, February, 1959, No. 33, eff. 3-1-59; am. Register, March, 1962, No. 76, eff. 4-1-62; am. (4) Register, June, 1970, No. 180, eff. 1-1-71; am. Register, February, 1975, No. 230, eff. 3-1-75.

PW-PA 20.12 Overpayment of AFDC. (s. 49.195 (3) Stats.) (1) **DEFINITION.** Overpayment is that amount of a payment to which a recipient is not entitled.

(2) **CONTINUED PAYMENTS THAT ARE OVERPAYMENTS.** Excess amount of payments ordered continued pending a fair hearing when the fair hearing decision is subsequently adverse to the client are overpayments.

(3) **CONTINUED PAYMENTS THAT ARE NOT OVERPAYMENTS.** Excess amount of payments received when the county agency's advance notice period of adverse action extends into the next month are not overpayments.

(4) **RECOVERY OF OVERPAYMENTS.** (a) Recoupment from the grant shall not be done for overpayments made prior to the effective date of this rule unless court ordered.

(b) Recovery may be waived when the amount of the overpayment is less than \$12 since the cost to collect exceeds the amount to be recovered.